

NEWS NOTES

OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

Vol. 3, No. 4, April, 1951

Philadelphia, Pa.

Knight - Mott Case Continued

Nick Christiano Acquitted

Nick Christiano, C. O. charged with refusal to submit to induction, was granted a judgment of acquittal by Judge J. Joseph Smith in U. S. District Court at Hartford, Conn., April 4th. The acquittal was granted on the motion of Marvin Karp, defense attorney, after testimony by the draft board clerk indicated that Christiano's form 150 had not been considered by the draft board at the time of Christiano's original classification, and they did not send him a new classification notice after subsequent consideration of the form, previous to sending the case to the appeal board.

Judge Smith's ruling that procedural error by the local board constitutes denial of due process of law conform's with previous court rulings in similar cases. In U. S. vs. Zieber (161 F. 2d 90), for instance, the court ruled, "Good faith and honest intention on the part of the Local Board is not enough. There must be full and fair compliance with the provisions of the Act and the applicable regulations."

The Christiano case further emphasizes CCCO standing advice that C. O.'s charged with failure to submit to induction should plead not guilty and challenge the validity of the induction order. Judicial review in the courts is still narrow, but procedural error, prejudice, arbitrary classification, and classification without any basis in fact are valid defenses for refusal to submit to induction. These elements are always present where any draft board flatly denies or refuses to consider all requests for IV-E classification. They are often present in other cases.

It is important that C. O.'s report to the induction station and refuse to submit to induction if they wish to challenge the validity of their induction orders.

CCCO is glad to consult with any man facing prosecution for conscientious violation of the Selective Service Act. It is recognized that many C. O.'s will end up in prison, but the full provisions of the law, when properly utilized, will prevent some men from serving prison terms.

NO WORD ON MICHENER SENTENCE

The formal motion for reduction of Robert Michener's 10-year sentence has been made, but Judge Hill has not acted on it as we go to press.

Court Test on Validity of Repeated Prosecutions Further Delayed

The long struggle to prevent repeated and continuous prosecutions of conscientious objectors who do not comply with the law continues with a new development in the Iowa cases.

Roy Knight and Donald Mott appeared for trial in Sioux City, Iowa, March 27. Knight and Mott, who previously served 18 months sentences for refusal to register, are now charged with failure to fill out the questionnaire, failure to report for physical examination and failure to report for induction. They pled not guilty when arraigned January 4. The cases have received national publicity through the CCCO flyer, "Prosecution or Persecution."

At their appearance for trial March 27, Judge Henry N. Graven ordered the district attorney to fill out all of the Selective Service questionnaires for the men, and the cases were continued. Selective Service regulations provide that all questionnaires be filled out, including the special form for C. O.'s when applicable, when delinquents are taken into custody.

C. O.'s have been registered before leaving prison, but the questionnaires have not been filled out. This causes the draft boards to say they have no basis upon which to classify the men, and delinquencies soon develop when absolutist objectors are involved.

It is uncertain what the effect of Judge Graven's order will be on the Knight-Mott prosecutions. Mott had previously been classified V-A by his board. With the information available on Knight's questionnaires his board could give him deferred classifications III-A, II-C, or IV-E.

The Judge's order should result in at least a dismissal of the indictment charging failure to fill out the questionnaire, and it may result in ending the prosecution.

There have been no new arrests of men facing second prosecutions. In addition to the Knight-Mott cases there are three other men waiting trial after serving one prison sentence for selective service violations. These men are Henry Standing of Iowa and Amos Brokaw and Stephen Simon of Indiana. Standing's trial has been set for April 26th. No date has been set for the trials of the Indiana cases.

S. S. Enforcement Reported

The newest addition to the Selective Service series of reports on various phases of the 1940 draft law is **ENFORCEMENT OF THE SELECTIVE SERVICE LAW**, Special Monograph No. 14 (Superintendent of Documents, Washington 25, D. C., \$1.50).

This report is not as important to C. O.'s as **CONSCIENTIOUS OBJECTION**, reviewed in the March issue of **NEWS NOTES**, but it does contain several items of interest.

It is explained that the enforcement philosophy of Selective Service was to secure compliance with the law, and it was evidently successful. 368,405 FBI investigations of Selective Service violations resulted in only 15,758 convictions with compliance generally the reason for lack of prosecution and conviction.

1917 Prosecutions Included

The brief section on enforcement during World War I shows that period as one when non-registration was by far the most expedient policy for conscientious objectors. Non-registrants remained subject to civilian law, and 3,748 men were sentenced for non-registration. The maximum penalty was one year, and only 13 percent of the men sentenced received more than six months in prison. Compare this with the following sentences given the 503 objectors who were court martialed:

Original sentence	After review	
Death	17	None
Life	142	None
50 yrs. or more	4	2
25-50	82	186
10-25	213	212
5-10	30	33
1-5	12	14
Less than 1	3	2
Dismissed	—	54

"Dodgers" Treated Better

It was apparent under the 1940 law that "draft dodgers" received shorter sentences than conscientious objectors. This report documents this by separating statistics on non-C. O. convictions. 40 percent of the 9,672 men not considered conscientious objectors by the Department of Justice received sentences of six months or less, fines only, or probation. Just 7 percent of the C. O.'s convicted were given sentences this light.

At the other end of the scale, 25 percent of the C. O.'s were given sentences longer than four years while only 3 percent of the other violators received sentences this long.

Another interesting point on sentences for Selective Service violations is the wide variance in the severity of different court districts. The monograph includes a table of the average length of sentence in the court districts for the year ended June 30, 1945. The average sentence for the country was 31.9 months. The average sentence in Vermont was nine months, while the South Dakota and Western District of South Carolina averages were 60 months, the maximum possible.

Even within states the difference was often great. The most extreme was Mississippi where the average

Baltimore Sun Editorializes

An interesting aftermath to Larry Atkin's 4½-year sentence in Baltimore was the Sun editorial on the handling of the case by Judge Coleman. The editorial said in part, "However, the manner in which Judge Coleman conducted this case was upsetting. One expects disinterested behavior of a judge . . . Instead of which, Judge Coleman offered a display of judicial intemperance. The Friends Service Committee, which is affiliated with the Quakers and has pacifist motivation, had interested itself in the case. Judge Coleman denounced the good offices of the Friends Service Committee (which has been honored with the Nobel Prize) as an 'utterly incredible and shameful attitude for any creed or denomination to take.' The headmaster of young Atkin's school had interested himself in the case, not as condoning Atkin's action but in defense of the young man's moral integrity. He got a dressing down from Judge Coleman. Even the parents of the young man were threatened, by Judge Coleman, with the possibility of prosecution . . . Such crimes of conscience against the rules of society always tax the administration of Justice. In particular, they test the wisdom of the judge. Judge Coleman did not do very well on this test."

GREETINGS

Printed on the reverse side of the Washington Daily News story on the Michener case was the following item about a different approach to registering objection:

"Milwaukee, March 6—Lyle Fox, 23, classified I-A, was charged yesterday with throwing a stone through the window of a laundry owned by a member of his draft board."

sentence in the Southern District was 38.7 months longer than the average of the Northern District.

Justice Circulars Printed

Department of Justice Circulars to United States attorneys on enforcement of the draft are printed as part of the appendix to this monograph. They indicate that the Department did want objectors to receive their full rights as spelled out in the law, and that objector cases were handled with considerable care.

A circular of special interest is No. 3421, Supplement No. 8 which outlines the policy of not prosecuting the C. O. non-registrants in the 45-65 age group.

Also in the appendix is listed 356 reported Selective Service cases, both criminal and civil suits. Unfortunately, since the points of law raised are not listed, this compilation has little value other than the basis of research work.

Counseling Services Available

CCCO is able to offer nation-wide personal counseling services to C. O.'s through the cooperation of the following competent local or regional organizations: (FOR—Fellowship of Reconciliation, AFSC—American Friends Service Committee)

CALIFORNIA

Los Angeles Area Committee for C. O.'s,
306 N. Vermont Ave., Los Angeles 4
FOR, 213 So. Broadway, Los Angeles 2
FOR, 1941 Oregon Ave., Berkely 3
AFSC, 1830 Sutter St., San Francisco 15
AFSC, 426 N. Raymond Ave., Pasadena 3

COLORADO

FOR, 4495 Perry St., Denver 2

ILLINOIS

C. O. Information and Service Bureau
FOR
Methodist Commission on World Peace
all three at 740 Rush St., Chicago 11
AFSC, 19 So. La Salle St., Chicago 3

INDIANA

Five Years Meeting of Friends, Board on Peace and
Social Concerns, 101 So. 8th St., Richmond
AFSC, Overview, Route 28, Richmond

IOWA

Iowa Committee for C. O.'s
AFSC
both at 1116 E. University Ave., Des Moines 16

KANSAS

AFSC, 2023 University Ave., Wichita

MARYLAND

Baltimore Peace Center, 328 N. Charles St.

MASSACHUSETTS

Mass. Committee for C. O.'s
AFSC
both at 1374 Mass. Ave., Cambridge 38
FOR, 9 Park St., Boston 8

NEW YORK

New York State Committee for C. O.'s
841 University Bldg., Syracuse 2
War Resisters' League
Metropolitan Board for C. O.'s
both at 5 Beekman St., New York City 35
FOR, 21 Audubon Ave., New York City 32

NORTH CAROLINA

AFSC, 225 East Lee St., Greensboro

OHIO

AFSC, 2268 E. Main St., Columbus 9

OREGON

AFSC, 1108 S. E. Grand Ave., Portland 14

PENNSYLVANIA

Pittsburgh Committee for C. O.'s,
2069 Lindsay Rd., Pittsburgh 31
Friends General Conference,
1515 Cherry St., Phila. 2
Friends' Peace Committee, 304 Arch St., Phila. 6
AFSC, 20 So. 12th St., Phila. 7
FOR, 2006 Walnut St., Phila. 3

TEXAS

AFSC, University YMCA, Austin 12

Car Sold for Taxes

Walter Gornly, Mt. Vernon, Iowa, who refuses to pay income taxes because they finance the war effort, had his 1948 Crosley Station Wagon seized by the government. The car was sold at auction March 2.

Gornly distributed handbills at the sale explaining his stand and asking the crowd not to bid, but the request was ignored. Several non-pacifist college students picketted the sale carrying signs with messages such as "Don't Buy Walter's Car" and "It May Be Legal, But It Ain't Right."

Several C. O. tax refusers have had their salaries garnished, but Gornly, an engineering consultant, is self-employed. He served a prison term during World War II for refusal to report to C.P.S.

Objector Fined \$10,000

James Cox, Jr. received the first big fine under the 1948 draft law when Judge Frank Picard gave him the maximum sentence of five years in prison and a \$10,000 fine in Detroit, Mich., March 28th. The largest fine previously given any C. O. under this draft act was \$200.

As we go to press, complete details on the case are not available.

Fines are not generally given in C. O. cases, and they are often immaterial when given, as C. O.'s generally are short of assets. Any person without assets who is fined in a federal court can satisfy the fine by serving an additional 30 days in prison, irrespective of the size of the fine.

WASHINGTON

Washington Committee for C. O.'s
AFSC
both at 3959 15th Ave., N. E. Seattle 5
FOR, 4033 University Way, Seattle

WISCONSIN

Student Committee for C. O.'s to War,
University of Wisconsin, Madison

Other organizations which offer counseling, but which do not work through CCCO include the Mennonite Central Committee, Akron, Pa., Brethren Service Commission, 22 So. State St., Elgin, Ill., and National Service Board for Religious Objectors, 1000 11th St., N. W., Washington, D. C.

Other C. O. committees are in the process of formation, and in addition to these organizations most of the local groups of the historic peace churches have committees or individuals especially appointed to counsel C. O.'s. CCCO keeps individual counselors informed in areas without organized committees. Persons interested in obtaining local counsel outside of the above areas should write for the name and address of the counselor nearest them. CCCO is also interested in assisting any local group to set up its own counseling agency.

If your local counseling agency has been omitted from the above list please notify CCCO so the agency can be included in a future issue of NEWS NOTES.

THE COURT REPORTER

I Prosecutions

Sentenced since last issue

- 2-7-51 Alfred Dana, 5 years (San Francisco, Calif.)
Judge Edward Murphy, refusal to submit to induction
- 2-28-51 Robert Somers, 1 year and 1 day and \$200 fine (Chicago, Ill.) Judge Walter J. La Buy, non-registrant
- 3-13-51 Don Noble, 2 years (Sacramento, Calif.)
Judge Dal M. Lemmon, non-registrant
- 3-13-51 James Farmer, 3 years (Los Angeles, Calif.)
Judge G. B. Harris, failure to report for ind.
- 3-28-51 James Cox, Jr., 5 years and \$10,000 fine (Detroit, Mich.) Judge Frank Picard
- Date ? Gerald Counts, 2 years (Albuquerque, N. M.)
failure to report for induction

Acquittal

- 4-4-51 Nicholas Christiano, U. S. District Court, Hartford, Conn.

Arrested since last issue

- Connecticut—Nick Christiano, James Bolton
- Ohio—David Wireman
- Oklahoma—Jack Richardson, Annett

II Men Currently Imprisoned

- Danbury, Conn.—Paul and David Seaver, Vail Palmer
- McNeil Island, Wash.—Don Fisk
- Petersburg, Va.—Larry Atkins
- Tucson, Ariz.—Robert Richter, Robert Canon, Gerald Counts, Alfred Dana, Richard Cronin, Salvador Quescade

Institutions not verified—Donald Kock, Robert Michener, Carl Kime, Robert Somers, James Farmer, James Cox, Don Noble

Thank You

CCCO appreciates the newspaper clippings we've been receiving as a result of our request in the February issue of NEWS NOTES.

We wish more of our readers would get the habit of sending us items from your local papers about C. O.'s, especially those concerning prosecutions.

Room 300
2006 Walnut Street
Philadelphia 3, Pa.

Reed M. Smith
318 S. Atherton St.
State College, Pa.

News Story Draws Comment

The Washington (D. C.) Daily News ran an excellent story and editorial on the Michener sentence. (Free copies of reprint available CCCO) As a result, they received some interesting letters from their readers which they published.

One man who signed himself Disgusted Ex-P.O.W. said in part, "I was a German P.O.W. for 22 months and I never saw an injustice of that kind there. The Constitution says there will be freedom of religion and that no man can be tried twice for the same crime. How come they are allowed now in this country?"

One correspondent wrote, "Can we not afford to protect them (C.O.'s) realizing that by so doing we are protecting and honoring the very finest and most important principles this country stands for? Dare we do otherwise?"

And another commented, "His (Michener's) treatment has been unworthy of American traditions. I think his position is very strange, and I can't agree with it, but here's to the non-conformist who would rather go to jail than surrender his faith."

Although CCCO and the American Friends Service Committee attempted to get wide scale newspaper stories and editorials on the Michener case, the effort was not very successful, considering the importance of the case, and its radical departure from precedent.

Readers of NEWS NOTES are encouraged to express their approval to newspapers for sympathetic handling of C. O. stories.

CORRECTION

In the Michener story in NEWS NOTES and in our special releases we stated that Judge Hill had 30 days to reduce the sentence. Federal Judges have 60 days within which they can reconsider the sentences they give. We apologize for this error.

Sec. 562, P. L. & R.
U. S. POSTAGE
PAID
Philadelphia, Pa.
Permit No. 1152

